

SHALL

**CAPITAL PUNISHMENT**

BE ABOLISHED?

---

AN ESSAY

READ AT A MEETING OF THE

TRINITY YOUNG MEN'S ASSOCIATION

— BY —

HENRY MOTT,

FEBRUARY 10, 1873.

---

MONTREAL :

PRINTED BY DANIEL ROSE, No. 210 ST. JAMES STREET.

1873.



*Purchased for the Lorne Pierce Collection  
at Queen's University on the  
Edith Chown Pierce Trust*

20/15

4/2/65

J. Patrick

ous  
ture  
whi  
alre  
a p  
whi  
I  
been  
tena  
the  
have  
I  
date  
with  
co-a  
opin  
abou  
It  
driv  
the  
It  
be s  
I  
may  
the  
dent

1500

1.75 -10

4/2/65

SHALL

## Capital Punishment

BE ABOLISHED?

I am not entirely satisfied with the selection of the subject for discussion this evening, because although it may have its attractive features, it most certainly has also its repulsive side. It is a question which may have lost some of its interest from the fact of its having already occupied the attention of the Members of this Association on a previous occasion, and, moreover, I believe it to be a question upon which no new argument can be produced.

I do not expect to convince any advocate of the death punishment, because I know of no question around which the prejudices cling more tenaciously, nor any measure where the bit-by-bit ameliorations, which the advocates of the abolition have wrung from a reluctant Legislature have been more stoutly contested by the lovers of the "good old times."

I know the "gallows" dies hard, for my own efforts in this direction date back as far as the year 1841, when it was my privilege to work with the late Lord Nugent, Mr. Ewart, M.P. for Dumfries, and their co-abolitionists, and I have never seen any reason for reversing my opinions then formed, therefore do not imagine that I am at all nervous about the truth and justice of the cause I advocate.

It appears to me that the advocates of the death penalty, have been driven back inch by inch, and I do hope to live to see the day when the barbarous institution will be swept away entirely.

It is quite impossible to say within my present limits all that should be said (or could be said) in favour of the abolition.

I take it that the field is now so narrowed that for our purpose we may regard it, that virtually the death punishment only remains for the crime of murder, thus the question almost becomes "whether the death penalty renders life more secure"? As far as our penal code in

J. Patrick

Canada is concerned, it is so similar to that of England, that in speaking I shall mainly refer to the question as arising from the English system.

Previous to the enactment of private executions in Canada, as you no doubt are aware, our code was ameliorated, abolishing the punishment entirely for every crime which could not be committed; and I might remark the noteworthy fact that the total abolition was once carried in the Assembly at Quebec, but it was thrown out in the Senate, by the casting vote of the Speaker only.

Before I go further, it may be useful to glance at the changes which have been made in the penal code during the past 60 or 70 years.

At the commencement of the present century about 150 crimes, some of them very trivial, were punishable capitally in England, as for example: stealing to the value of one shilling from a dwelling, five shillings from a shop, 40 shillings from a dwelling, with burglary, letting water out of a fishpond, cutting down a sapling, stealing linen from a bleaching ground, &c. &c. They hanged for a sheep, for a horse, for cattle, for coining, for forgery, for things that were, and for things that could not be. So frequently was the sentence executed that London fully deserved the name given to it by a popular writer, "The City of the Gibbet," and there was at least some reason for the poetic taunt of Dr. Johnson:—

"Scarce can our fields, such crowds at Tyburn die,  
With hemp the gallows, and the fleet supply."

Yet, notwithstanding the number of executions, there were so many motives for interference with, and obstruction to, the enforcement of the law, that criminals out of number escaped: Mr. Wilberforce said in the House of Commons, in the year 1812. "I remember, "having many years ago, been informed by Mr. Justice Buller that "out of 38 capital convictions not more than one execution, upon an "average, took place. Can it then be doubted that offenders will calculate upon the probability of escape."

The growing dislike of juries to convict helped to bring about a gradual relaxing of the code.

A man was tried at Carnarvon for forgery to a large amount, on the Bank of England, the evidence of the guilt of the prisoner was as satisfactory as possible, and brought the charge clearly home to him, the jury, however, acquitted him. The next day he was tried upon

another indictment, the evidence was again as conclusive as before, yet the Jury again acquitted the prisoner. The Judge (Chief Baron Richards) addressed him in these remarkable words:—

“Prisoner at the bar,—although you have been acquitted by a Jury of your countrymen of the crime of forgery, I am as convinced of your guilt as that two and two make four.”

Said one of the Jurymen “neither my fellow Jurymen nor myself had the least doubt of the prisoner's guilt, but we were unwilling to bring in a verdict of guilty, because we were aware that the prisoner would have been punished with death, which we conceived to be too severe a penalty for the offence.”

Thus did the judge impugn the verdict, thus did the jury violate their oath, and thus did a sanguinary statute restore culprits to their profession. Had the punishment for this offence been transportation, such men would not have been let loose upon society. The noblest institution in the world was daily degenerating into a school of perjury; nor was this all, men would not prosecute. “I should say (stated Mr. Samuel Houre, a London Banker,) not one in twenty forgeries is prosecuted.”

In like manner, in cases of indictment for stealing to the value of 40 shillings, which was punishable by death, prisoners by dozens were found guilty of stealing to the value of 39 shillings, thus avoiding the capital sentence.

The Legislature revised its arithmetic. Man made in the image of his Maker, rose in the money market. Human life was averaged at £5. Still the obstinate juries demurred to the valuations. Disregarding the actual amount stolen, they substituted for the old 39 shillings. Guilty of stealing to the amount of £4. 19s. 0d.

A man was tried at the Old Bailey, Sept. 15, 1831, for stealing £1000. £500 of the property was discovered and restored, the jury found him guilty of stealing to the value of £4. 19s. 0d. He was again indicted for stealing £25, and was again found guilty of stealing under £5. There were several other indictments against the prisoner, but the prosecutors after such verdicts allowed him to plead guilty to them all to the extent of £4. 19s. 0d.

The jury remembered that in the previous May a man had been executed under this very statute and they shrank from the work.



Judge Blackstone went far towards justifying such verdicts, which have come down to us on his authority as "pious perjuries."

Juries would not convict, judges would not act upon it. Lord Kenyon overcome to tears by a shrieking creature, who had just been found guilty, said:—"Woman, Woman, I don't mean to hang you." What a solemn stultifying mockery was this, the jury condemning the accused and the Judge sentencing the law. "I felt then" (said Mr. Morris, one of the Masters in Chancery who was present) "as I feel now, that this was passing sentence not on the prisoner, but on the law," and so indeed, it emphatically was.

It would appear indeed, that juries were not alone in reprobation of this statute. The feeling reached higher than the jury box, one of the most exemplary of our English Judges (Sir William Grant,) said there was amongst prosecutors, witnesses, juries, judges and ministers of the crown, a general confederacy to prevent the law being executed.

This is experience, this is history. But although this feeling prevailed to such an alarming extent, it took years of labour to bring about a relaxation of the severity of the penal code.

Pardon me if I pause here one moment, to lay a chaplet on the tomb of that great and good pioneer in this noble work, Sir Samuel Romilly, the profound lawyer, the learned jurist, the wise and humane legislator, the friend of Bentham, the co-operator with Brougham, the associate of every man, and the advocate of every measure likely to ameliorate the social condition of his country. He was well aware of the perils which awaited him, and prepared to encounter them with a hero's courage. He shared the fate of all propounders of change in any institution, he was derided by some, pitied by others, by not a few execrated, by almost all regarded as an advocate of a desperate cause. He could well afford to despise their pity, their ridicule and their execration. He was earning for himself a fame immortal, and repaying the ingratitude of a misled land by adding another Howard to her history. The dust of his detractors is scattered before the wind, but his pure name remains and will remain forever amongst the memorials of virtue and the treasures of humanity. He set about his christian work with caution. In his diary we find this entry: "As it appeared to me, that I had no chance of being able to carry through the House a bill which was to expunge, at once, all these laws from the statute book, I determined to attempt to repeal them, one by one."

He commenced his labours in 1808, by attacking that law of "good Queen Bess," which made stealing from the person a capital offence, and year after year he continued his work for the mitigation of the severities of the death sentence until 1818, when his death took place, and he left to others the consummation of his labors, and the glory of his example. May that resplendent example never be forgotten. May Romilly's untiring perseverance, invincible but by death, animate his successors in this christian cause, till the gallows is totally uprooted.

His mantle fell upon worthy shoulders, and the good work was continued by Lord Brougham, and others until at the commencement of the reign of Victoria, there were only ten capital offences remaining on the statute Book compared with 150 in the previous generation.

In 1833, the barbarous statute of "hanging in chains" was abolished, and in 1836, Mr. Aglionby carried a bill repealing the law for executing murderers within forty-eight hours after sentence.

In 1836 and 1837 there was a sweeping abrogation of the death penalty for a number of offences, leaving eight nominally capital, and of these only three remained virtually so. Of course all these changes were not carried without immense labor and against all sorts of opposition.

Chief Justice Ellenborough, on one occasion in his place in the House of Lords, declared, "if we suffer this bill to pass, we shall not know whether we are on our heads or on our feet." Lord Wynford, another law Lord said, "if we pass this into law the people of England could not sleep safely in their beds."

On the proposal to abolish hanging for sheep stealing, it was sapiently observed, that "there would be no mutton left in the country."

Let us see for a moment what statistics will prove for us:—I do not wish to be tedious, but I quote from Home office returns for England and Wales, annually laid before Parliament. I will take 16 crimes \* for which the death penalty had been abolished, between 1820 and 1836 and the commitments for these crimes for three years after the repeal, had all decreased as compared with the three years before the repeal, with the single exception of stealing in a dwelling house which had increased from 422 to 520, which goes strongly to prove my case, as I have pointed out to you how the convictions were evaded by juries whilst the death punishment existed, and immediately the milder

---

*See Appendix A.*

punishment was substituted the number increased, simply because it became worth while to prosecute, because conviction and punishment were more certain.

The figures in connection with the crime of forgery are still more remarkable, for the three years immediately preceding the abolition of the death punishment for this crime in 1836 there had been in England and Wales, 213 committals and 15 executions, and for the three years immediately subsequent on the substitution of the milder regime of imprisonment or transportation, the committals fell to 180. So that the crime actually decreased. Can my opponents show me any figures to prove that it might not be the same with the crime of murder.

The repeal of the capital sentence for forgery was mainly gained by the masterly talent and energy displayed by the late Lord Brougham to whose care was entrusted the celebrated Bankers' petition. The words of these petitioners are invaluable and speak trumpet-tongued :—  
 " Your petitioners find by experience that the infliction of death, or even the possibility of the infliction of death, prevents the prosecution, correction and punishment of the criminal, and thus endangers the property which it is intended to protect. Your petitioners *therefore* pray, that your Honorable House will not withhold from them that protection to their property which they would derive from a more lenient law." The more lenient law was enacted and I have already shown you its result in a decrease of the number of committals for forgery during the first three years subsequently.

I am in good society in advocating the abolition of the death penalty. Solon at Athens, Cicero at Rome; in later times Lord Bacon and many other eminent judges, lawyers and jurists are on the same side. Coke, Blackstone, Sir Thomas More, and so to speak, in our own day, in addition to Sir Samuel Romilly, I may cite Sir James Mackintosh, Lords Brougham, Denman, and Dr. Lushington, the three brave men who defended Queen Caroline in 1820; Jeremy Bentham, Sir Wm Meredith, Sir Wm. Grant, Canning, Wm. Wilberforce, Lord Campbell, Daniel O'Connell, Charles Phillips, the late Duke of Sussex, the Duke of Kent, the uncle and the father of our beloved Queen; Joseph Hume, Henry Aglionby, Wm. Ewart, Richard Cobden, and a convert late in life, the present Earl Russell. In France, Mirabeau, Louis Philippe, Guizot, Arago, Lamartine. In Italy, Marquis



Beccaria, Massini and Garibaldi. In Belgium, the late King Leopold. In Sweden, the King Oscar, the son of Charles John Bernadotte, Napoleon's Marshal, were all abolitionists. In the United States, Benjamin Franklin, John Quincy Adams and Livingstone of Louisiana. I do think I need not be ashamed of my company, surely they are not all whining morbid philanthropists as it is fashionable to call those who advocate the abolition of the death penalty.

On the 24th June, 1830, it was my fate to see the last person who stood in the pillory in Eng'and, and I hope yet to hear the death knell of the gallows.

I shall here only mention by name the States where capital punishment has been partially or wholly abolished, and in every case has it worked well. In the United States: in Rhode Island, Michigan, Wisconsin, and Louisiana, the death punishment does not exist and I think I may defy my opponents to say that they are the most disorderly States in the Union. Venezuela, New Granada, (U. S. of Columbia,) Ecuador. In Europe we have Brunswick, Oldenburg, Anhalt, Nassau, Bremen, virtually in Baden, Bavaria and Wurtemberg. In Switzerland, the cantons of Zurich, Freiburg, Neuchâtel, and Glarus. In Belgium and Sweden, it is also virtually abolished; and in Russia,\* Prussia, and Portugal. In Moldavia, Wallachia, and the brave little Republic of San Marino.

On 24th February, 1827, a native Assembly was convened at Otaheite for the purpose of devising a system of laws and a debate of four days duration was terminated by an unanimous vote excluding the death punishment from the code of Otaheite.

I have reserved to the last of my list, Tuscany, (where no execution has taken place for 42 years), because it is a most remarkable instance of the truth of my observations. The experience of Tuscany is very interesting, as it has extended over a long period. Capital punishment was virtually abolished in that State by the Grand Duke Leopold, in 1770, and absolutely so in 1786. The result was a remarkable diminution of murders. In consequence of the political confusion attendant on the wars of the French Revolution, and chiefly through Austrian influence and the dread of conspiracy, the death penalty was reenacted in Tuscany in 1790. But the remembrance of former experience procured its repeal a second time. Once more, did Austrian

---

\* See Appendix B.

influence, as it is alleged, effect a re-imposition of Capital Punishment, but yet again have Tuscan opinions obtained for the third time the abolition of death penalties.

In 1864, the new code of the recently formed Kingdom of Italy, whilst nominally recognizing Capital Punishment as the extreme penalty throughout the Peninsula, yet makes provision for the virtual maintenance of its entire abrogation in the province of Tuscany. The infliction of permanent imprisonment is the substitute imposed.

I honor the brave Tuscans for the tenacity with which they defended the reform they had struggled for so long. When Victor Emanuel was about to remove his residence from Turin to Florence—a deputation from the government waited upon him at Turin and made the bargain that their cherished abolition of the death penalty should not be interfered with in Tuscany.

I challenge my opponents to show any bad results from the evidence I have brought with respect to the abolition in any of the countries named.

The efforts to abolish the penalty in various States have led occasionally to some very remarkable language intended as argument.

In the Bavarian Parliament, Herr Von Bayer held that while it existed in the neighbouring States, the abolition in Bavaria would have the effect of bringing an influx of foreigners to that country in order to commit crimes worthy of death.

Equally unworthy was the utterance of our own Mr. Roebuck, M.P. for Sheffield, in the British House of Commons in 1864:—"What hanging did was this. It removed a man who was dangerous, and the removal of a dangerous man very cheaply was a thing to be considered by society. You hanged him, and there was an end of him, and an end to the danger from that man, and you were not liable to be charged with sentimentality."

Besides being very stupid and very wicked, I hold that this kind of argument on the part of those who uphold hanging narrows the question to one of revenge, instead of punishment. The object of all punishment in a civilized country should be the reform of the criminal and the prevention of a recurrence of the crime.

Now, if it is evident that the death penalty does not leave a wide margin for reform, and if it can be shown not to be a deterrent, the

whole system becomes useless, and I charge the gallows with having utterly failed as a deterrent.

One of our judges expounded this plain philosophy in a homely way to a man whom he was sentencing for horse stealing. "You are not condemned," said he, "for stealing a horse, but to prevent other horses from being stolen."

Now there was a decrease in the crime of horse stealing consequent on the repeal of the death penalty for that crime, therefore it was no deterrent. So with murder, whenever we have executions, it is proved beyond dispute that we have more murders.

Quebec, until a recent occasion, had not seen a hanging for 25 years, was Quebec a safer city to live in than Montreal where the gallows has borne its fruit regularly?

If the death punishment is a deterrent, a sad mistake has been made in enacting the private execution of the sentence, for certainly to be any example, it should be carried out in public—else the advocates of the deterrent policy cut the ground from under their feet. It is evident the private execution was substituted because the public one was so completely a failure, and had become such a monster nuisance that it "out Heroded—Herod." I, at all times opposed private executions, because I foresaw that the change would postpone the total abolition until the "Greek Kalends," and I was satisfied that if the enormities of the public system continued, it would fall of its own rottenness. It may be clearly shewn that where the people are familiarized with death, they become careless of the sanctity of human life, and are ready to commit nameless crimes.

May we not say that the cruel war which devastated the United States only so recently, caused the people to be careless of life, and let loose on society, criminals of the highest order who are yet stalking red handed through that land.

It is proved beyond dispute, that where capital punishments most abound, murder is most common; that where capital punishments are rarest, murders are rarest too, and that where capital punishments have been entirely abolished in respect of murder, the crime of murder has invariably decreased. If a country has fewer murders without the penalty of death, than with it, then the penalty of death is not only unnecessary, but positively baneful; and further, it must never be forgotten that while there is no evidence whatever to show that the

penalty of death operates to restrain men from committing murder, every murder which is perpetrated is a clear proof that the penalty of death does not restrain. It has nothing to do with the question, the singling out of some atrocious scoundrel, and asking me what I would do in the case of "such an one;" and my good and worthy opponent would generally wind up his state of facts with the verdict "he is not fit to live." I would reply to this, who am I, "poor pensioner on the bounties of an hour," that I shall say, "he is fit to die?"

One grave charge against hanging, and in my judgment an insuperable one, is that under this system innocent persons have been executed. It has been proved by the most incontrovertible evidence, that such mistakes have occurred. If time permitted I could put in the records of twenty such cases at least during the past fifty years, and I say on this ground alone, unless an infallible tribunal can be found, we have no right to apply a punishment which cannot be revoked.

I believe I have done, with the sole exception of what may be called the Bible argument, on this question. The passage in the Bible on which the anti-abolitionists rely, is in 9th chapter of Genesis, ver. 6. "Whoso sheddeth man's blood, by man shall his blood be shed." I declare that I do not approach this enquiry flippantly, but with delicacy and reverence. If I am wrong, I pray that God may open my eyes and enlighten my understanding to a fuller knowledge of His Word. This is said to be a command transmitted to mankind, through Noah, on his disembarkation from the ark. I cannot regard it as a mandate at all. It may be prophetic; it may be denunciatory; but there is nothing imperative about it. It may be that, in the almost depopulation of the earth, consequent upon the deluge, this was a solemn monition for the protection of human life, and its meaning ceased with the necessity which called for it. I cannot reconcile it as a mandate with other teaching which I find in God's word. The God who "desireth not the death of a sinner, but rather that he may turn from his wickedness and live." I cannot find one word that conveys to my mind, a delegation to man of the power to take away human life, but on every page (so to speak), I can find evidence of an opposite character. "Judge not that ye be not judged," "Vengeance is mine I will repay saith the Lord," "Lord how oft shall my brother sin against me and I forgive him? Till seven times?"



Jesus saith unto him, I say not unto thee, until seven times, but until seventy times seven."

Why, the very clause in the Decalogue, which we call the 6th commandment, "*Thou shalt do no murder*," is a distinct proclamation of the sanctity of human life. If we turn to the 20th chapter of Exodus, verse 13, the original of this, we shall find it recorded "*Thou shalt not kill*." This I take to be a strict mandate against taking away human life by man, under any circumstances whatever. A command binding alike on princes and people, rulers and ruled. I believe therefore that the death punishment is not sanctioned by the Bible, but the very reverse.

There are two murders recorded before the deluge, but we cannot find one word of the lives of the murderers being required as atonement. The first murderer was Cain—the first being—born of woman, stained the young earth with the first human blood—and that blood, the blood of a brother. The crime assumed a giant maturity at the very moment of its birth, it defied time or atrocity to exaggerate it, it was not only a murder, but a fratricide—committed on the very threshold of the altar. Yet Cain's blood was not shed; the Almighty prohibited its being shed. "Whosoever slayeth Cain," said the Lord, "vengeance shall be taken upon him sevenfold—and the Lord set a mark upon Cain, lest any finding him should kill him." Cain was marked, not lest he should kill others, but lest he should be killed. He had shed innocent blood—a brother's blood—and yet he was marked—that his blood might not be shed. Cain might have been spared, as a warning to mankind, he might have been spared for that soul healing repentance for which our legislation denies the opportunity.

Viewed, in any light, this case, even if it stood alone, furnishes a distinct, indelible, undeniable proof, that the passage in Genesis 9, ver. 6, is not a mandate.

The murder by Lamech is another instance in which no record exists of the murderer's life having been taken.

The murder committed by Moses is perhaps still more remarkable. It was deliberately committed, and yet his life was not taken. He was permitted to depart into Midian, and the very inducement under which Moses returned to Egypt, should for ever negative the construction forced upon the version 9th Genesis. And the Lord said unto Moses in Midian, go return into Egypt for all the men are dead who

sought thy life. We know that Moses died peacefully at the age of 120 years, his eye undimmed and his natural force unabated.

Now in the cases of Cain and Moses, we have this remarkable fact, that God dealt direct with them, and carefully shielded them so that their lives were spared. Here we have an infallible tribunal, a judge who could not err, and the murderers lives were not taken.

Murders too, are recorded as having been committed by David, Manasseh and others, and no word of any of the murderers suffering death for it.

"God who at sundry times and in divers manners spake in times past unto the fathers by the prophets, hath spoken unto us by his Son." And what has that Son said, has he not in express words abolished the code of Moses; has he not denounced the vindictive principle of retaliation and substituted that of mercy and forgiveness.

Where do we find in that blessed sermon on the Mount, a word which breathes not love and charity? The record in the Gospel narrative of the woman taken in adultery, where a capital offence was brought immediately under the notice of our Saviour, cannot be passed over. "Master, this woman was taken in adultery. Now Moses in the law commanded us that such should be stoned, but what sayest thou?" He refused his sanction to the principle of the right to take away human life. His reply swept away this principle. "He that is without sin among you let him first cast a stone at her." This reply does not involve either excuse for the offence, or the exculpation of the offender, while his mercy recoiled from a penal condemnation, the justice of his nature could not withhold reproof, "Go," said he to the poor humbled, trembling creature. "Go and sin no more." He gave no countenance to the shedding of human blood.

Oh! it will be one of the greatest triumphs ever achieved in Parliament, when we can rise above this mode of punishment and do without it. It will be the wiping away of a blot from the history of our country. It will not be a noisy triumph, not a success announced by sound of trumpet and beat of drum, but a solid substantial influential moral victory, calling gladness into the hearts of good men, and forming a rallying point for the philanthropist and Christian the wide world over. It will accelerate the time when education shall have so far advanced, when character shall be so rightly moulded, when truth, sincerity and principle shall so prevail, as that punishment, through

almost all its forms, may become obsolete, and be forgotten in the mutual endeavours of the members of society to encourage and assist one another in their various pursuits, in their use of the means of happiness which Providence has multiplied around them, and in the progress of the individual and social mind towards a purer, nobler and more blessed condition of existence.



age of  
defect,  
so that  
a judge

David,  
suffering

n times  
by his  
e words  
indictive  
givenness.

a word  
e Gospel  
ence was  
cannot be  
ry. Now  
but what  
the right  
ole. "He  
at her."  
the exul-  
al condem-  
"Go," said  
no more."

d in Parlia-  
do without  
ory of our  
announced  
tial influen-  
d men, and  
ian the wide  
shall have so  
when truth,  
nt, through

## APPENDIX A.

NUMBER of persons Committed in England and Wales for various crimes during three years immediately preceding the repeal, or discontinuance, of the capital punishment for each offence, and three years immediately subsequent.

	Last Execution.	3 years before Repeal.		3 years after Repeal.	
		Committed.	Executed.	Committed.	
Cattle stealing, three years ending	1820	113	3	67	
Horse stealing	" "	1829	590	22	566
Sheep stealing	" "	1831	787	7	793
Stealing in dwelling house	" "	1831	422	4	520
Forgery	" "	1829	213	15	180
Coining	" "	1828	39	7	14
Letter stealing	" "	1832	11	1	14
Sacrilege	" "	1819	24	2	25
House breaking	" "	1833	2103	8	2410
Burglary	" "	1836	787		
Robbery	" "	1836	1053	5	889
Arson	" "	1836	191	17	113
Riot and Felony	" "	1832	208	6	60
Piracy	" "	1830	52	2	2
Attempts to murder	" "	1841	661	2	707
Assaults on females	" "	1836	174	5	185
Other offences	" "	1835	69	9	75
		<hr/>		<hr/>	
		7497		6620	

Decrease.....377

The foregoing general results for England and Wales are in unison with the following return to the House of Commons, dated March 23, 1837, relating to Middlesex :



**NUMBER of Executions** which took place for London and Middlesex in three years ending December 31, 1830; in three years ending December 31, 1833; and in three years ending December 31, 1836; together with the number of Commitments in each of these periods respectively, for offences that were capital on January 1, 1830.

	Periods.	Executed.	Committed.
In three years ending 31st December, 1830		52	960
Do.	do 1833	12	896
Do.	do 1836	nil.	823

Here, a striking fact presents itself, namely, that not a solitary conviction for murder took place in the last three years, during which there had been a discontinuance of executions. This is unprecedented in the annals of the Old Bailey.

## APPENDIX B.

### PRACTICAL RESULTS OF THE TOTAL OR PARTIAL ABOLITION OF CAPITAL PUNISHMENT IN VARIOUS COUNTRIES.

**FRANCE**—We have the official testimony of the Keeper of the Seals, that “notwithstanding the greatly reduced number of executions during the last 30 years, crime has not increased, but on the contrary, there has been a decrease.

Date.	Capitally Condemned.	Executed.
1861.....	26	14
1862.....	39	25
1863.....	20	11
1864.....	9	5

**RUSSIA.**—Capital punishment has been nearly discontinued for a long period, without inconvenience and with decided advantages. The Governor of a large province in the Oural District, (who has under his care 4 to 5,000 transported criminals), reports “that one hundred years of Russian experience have proved the favorable results of transportation in lieu of capital punishment.”

**PRUSSIA.**—Of late there has been a remarkable increase of the prerogative of mercy, by a great extension of commutations for murder through the imposition of life imprisonment instead of death. The number of executions fell from 102, during the five years ending 1857, to 13 for the similar period ending 1862. The wisdom of this change is justified by the result, for although the executions for murder in the latter five years were 89 fewer than in the former, yet the number of murderers convicted did not increase, but on the contrary decreased by 31.

**BELGIUM.**—For a period of five years, (1830-34), the capital penalty was virtually discontinued, and no execution took place during that term. The result was so satisfactory, that in those five years only 22 persons were condemned for homicidal crimes,—a considerably smaller number than for any preceding five years of the present century. In the five years ending 1829, there were 22 executions. But in the next five years with no executions at all, there were fewer murders committed than previously. Nevertheless, owing to the fears of certain influential parties, capital punishment was resumed in 1835, though to a far more limited extent than formerly. Four executions took place during the ensuing five years ending 1839, but the commitments for homicidal crimes, which for thirty-five years had been steadily decreasing, now rose nearly fifty per cent. as compared with the preceding non-capital punishment period. The Inspector of Prisons states, that in the four Provinces of Liège, Limbourg, Luxembourg and Namur, only one execution has taken place for forty years, and that, nevertheless, grave crimes are known to be relatively much more rare than in the other Provinces. This is quite in harmony with other experiences of the abolition of the death penalty.

**TUSCANY.**—This was the first European State to make the experiment of the total abolition. From a conviction of its inefficiency it was virtually abolished by the Grand Duke Leopold in 1774, and further repealed by statute in 1786. Nevertheless, murders in Tuscany decreased. In consequence of political agitation at the period of the French Revolution, the death-penalty was re-enacted in 1790, but no execution occurred in the State from 1774 to 1799, a period of twenty-five years. During the first thirty years of the present century, the scaffold was very rarely raised in Tuscany; but in 1830, two executions took place, one at Pisa, and one at Florence. On this occasion,

the inhabitants of the latter city testified their horror of the punishment by deserting the streets and closing their shops. The Grand Duke stated, "that the people had taught him such a lesson, that in future, no executions should take place in his dominions, especially as the reports of the authorities were unanimously in favor of the abolition." No execution has taken place in Tuscany since 1830, a period of forty-three years.—In 1847, it was a second time abolished by statute, in consequence of its virtual disuse for so long a period. In 1848, and subsequently, revolution again disturbed Italy, and in 1852 it was deemed necessary to re-enact capital punishment; but still it was not enforced, and the popular disapprobation of its renewed legalisation was general and effectual. In 1859 and 1860, after the union of Tuscany to the new Kingdom of Italy, capital punishment was a third time abolished by statute. This abolition is specially recognized by the new Italian Code of 1860, and is the present condition of Tuscan law on the subject.

**SWITZERLAND.**—Several of the Cantons of Switzerland have almost discontinued, and three, viz., Freiburg, Neuchâtel, and Zurich, have abolished it altogether.—There has been no execution at Freiburg since 1832, nor at Neuchâtel since 1830; but the formal abolition by statute did not take place in either Canton until 1848, after more than 16 years experience of the discontinuance.—The Swiss Minister of the Interior at Berne, reports favorably of the results of the abolition.—In Canton Glarus, there has been no execution since 1836, with experiences officially reported in favor of the discontinuance.

**PORTUGAL.**—The last execution took place in 1846. The capital sentences are commuted to hard labour for life. The statistics of homicidal crimes, exhibit a continued and steady decrease to a very considerable degree. In 1851, the number of such crimes was 278; in 1855, 173; and in 1860, 142.

**SWEDEN.**—There has been a great decrease in the number of executions. During six years 90 per cent. of the capital sentences have been commuted, nevertheless capital crimes have rather diminished than increased.

**GERMANY.**—In 1865, the Wurtemberg Chamber of Deputies voted the abolition by 56 to 27, but the measure did not pass the Upper House. Yet the infliction of the extreme penalty is virtually abolished, no execution having taken place since 1863. Bavaria, virtually abo-

ished, last execution, 1861; Baden, ditto, 1862; Oldenburg, totally abolished in 1849; Nassau, ditto, in 1849; Anhalt, ditto, in 1850; Bremen, ditto; Brunswick, virtually abolished. The official criminal tables are not published, but according to official reports, "the number of murders is not increased, and there is not any reason to re-establish the death punishment."

— The penalty is also totally or virtually abolished in *Moldavia*, *Wallachia* and *San Marino*; also in *Tahiti*, in *Venezuela* in 1864, and in *New Grenada*, (the United States of Columbia), in 1863; also in *Ecuador*. But no detailed reports have been received from these localities.

UNITED STATES.—The death punishment has been totally abolished in three States, viz., Michigan in 1847, Rhode Island in 1852, and Wisconsin in 1853. The Governors of each of these States report that the "system works well."—In Michigan, the average population from 1847 to 1864 was 600,000; the convictions for murder were as follows: 1847, 1; 1848, 3; 1849, 1; 1850, 0; 1851, 3; 1852, 1; 1853, 2; 1854, 5; 1855, 4; 1856, 3; 1857, 3; 1858, 3; 1859, 2; 1860, 3; 1861, 1; 1862, 1; 1863, 0; 1864, 2.—The Governor of Wisconsin wrote, March 29, 1864: "That after a trial of eleven years, the people find themselves equally secure, and justice more certain, than before the death penalty was abolished, leaving little doubt of the wisdom of the repeal. The population of the State was in 1850, 305,391; in 1860, 775,629: with this increase of population, we might naturally expect a large increase of criminal cases, but this does not appear to have been the case."—In the State of Maine, the punishment has been almost totally discontinued for 30 years, only one execution having occurred from 1837 to 1864.—In Louisiana, the Code of Mr Livingstone excluded the death punishment.—In Pennsylvania, deliberate premeditated murder is the only crime punished capitally. And Governor Curtin, writing in 1864, says, "It is very difficult to obtain a jury in capital cases."

BOMBAY.—It is appropriate to allude to the experiment made in India whilst Sir James Mackintosh was recorder of Bombay. The charge delivered by that eminent man to the grand jury of that city, in July, 1811, contains the following paragraphs, after quoting the criminal statistics of Bombay for 50 years:—"It will appear that



the capital crimes committed during the last 7 years, with no capital execution, have, in proportion to the population, not been much more than a third of those committed during previous 7 years, notwithstanding the infliction of death on 47 persons. The other septennial period lead to the same results."—"This small experiment has been made without any diminution of the security of the lives and property of men. Two hundred thousand men have been governed for 7 years without a capital punishment and without any increase of crime."



totally  
in 1850;  
criminal  
the num-  
on to re-  
Moldavia,  
in 1864,  
1863; also  
from these  
ly abolish-  
d in 1852,  
States re-  
rage popu-  
for murder  
1851, 3;  
3; 1857,  
1863, 0  
29, 1864:  
lves equally  
penalty was  
repeal. The  
0, 775,629:  
spect a large  
ave been the  
al most total-  
occurred from  
one excluded  
premeditated  
ernor Curtin,  
jury in capital  
ment made in  
Bombay. The  
ry of that city,  
er quoting the  
ll appear that